

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

FRANCISCAN ALLIANCE, INC.;  
SPECIALTY PHYSICIANS OF  
ILLINOIS, LLC;;  
CHRISTIAN MEDICAL &  
DENTAL ASSOCIATIONS;

- and -

STATE OF TEXAS;  
STATE OF WISCONSIN;  
STATE OF NEBRASKA;  
COMMONWEALTH OF  
KENTUCKY, by and through  
Governor Matthew G. Bevin;  
STATE OF KANSAS; STATE OF  
LOUISIANA; STATE OF  
ARIZONA; and STATE OF  
MISSISSIPPI, by and through  
Governor Phil Bryant,

*Plaintiffs,*

v.

ALEX M. AZAR, II, Secretary of the  
United States Department of Health  
and Human Services; and UNITED  
STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,

*Defendants.*

Civ. Action No. 7:16-cv-00108-O

**STATE PLAINTIFFS' RENEWED  
MOTION FOR SUMMARY  
JUDGMENT**

State Plaintiffs, by and through counsel, and pursuant to Federal Rule of Civil Procedure 56(a) and Local Rule 56, respectfully move the Court for summary judgment on all their claims in their First Amended Complaint (ECF No. 21).<sup>1</sup> There are no genuine issues of material fact and State Plaintiffs are entitled to judgment as a matter of law.

State Plaintiffs specifically request the following relief against the Defendants, their officers, agents, employees, and attorneys:

1. A declaratory judgment that the Rule is invalid under the Administrative Procedure Act;
2. A declaratory judgment that the Rule violates Article I, the Tenth Amendment, and the Eleventh Amendment to the United States Constitution;
3. A permanent injunction prohibiting Defendants from enforcing the Rule; and
4. An order vacating and setting aside the unlawful portions of the Rule.

In support of this Motion, State Plaintiffs adopt and incorporate by reference, as if fully stated herein, the arguments presented in support their prior motions for partial summary judgment and preliminary injunction, ECF Nos. 23, 25, 37, 56, and 57, as well as the evidence offered in support, ECF Nos. 26, 56-1, 57-1, 60, 83, and 84, and ask the Court to consider those filings and evidence in support of this Motion.

A brief in support of this Motion satisfying the requirements of Local Rule 56.3, an Appendix, a proposed order, and a proposed final judgment are filed contemporaneously with this Motion.

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<sup>1</sup> Wisconsin joins the motion only as to Argument section I.D. in the accompanying brief, and to requests for remedy corresponding to that argument.

Wherefore, State Plaintiffs respectfully request that judgment be entered in their favor and against Defendants.

Respectfully submitted this the 4th day of February, 2019.

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/s/ David J. Hacker  
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NEBRASKA; COMMONWEALTH  
OF KENTUCKY, by and through  
Governor Matthew G. Bevin;  
STATE OF KANSAS; STATE OF  
LOUISIANA; STATE OF ARIZONA; and  
STATE OF MISSISSIPPI, by and through  
Governor Phil Bryant*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2019, I electronically filed the foregoing document through the Court's ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ David J. Hacker  
DAVID J. HACKER